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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 MICHAEL DENTON,

9 Plaintiff,

v.

10 TIM THRASHER, et al.,

11 Defendants.

CASE NO. C18-5017 BHS-DWC

ORDER ADOPTING REPORT
AND RECOMMENDATION

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13 This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge (Dkt. 19), and Plaintiff Michael Denton’s (“Denton”) objections to the R&R (Dkt. 20).

16 On April 11, 2018, Judge Christel issued the R&R recommending that the Court deny without prejudice Denton’s motion for a temporary restraining order because Denton had failed to state viable claims and it was too early to assess the likelihood of success on the merits. Dkt. 19. On April 20, 2018, Denton filed objections requesting *de novo* review of his motion and exhibits. Dkt. 20.

21 The district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Denton fails to assert proper objections. When Judge Christel issued
4 the R&R, Denton did not have a valid complaint on file. Thus, Judge Christel was unable
5 to assess the likelihood of success on any claim. There is no error of law in this
6 conclusion. Denial without prejudice is the proper course, and Denton is free to file
7 another motion based on the claims that did survive Judge Christel's screening of the
8 second amended complaint. *See* Dkt 21. Therefore, the Court having considered the
9 R&R, Denton's objections, and the remaining record, does hereby find and order as
10 follows:

- 11 (1) The R&R is **ADOPTED**; and
12 (2) Denton's motion for temporary restraining order (Dkt. 14) is **DENIED**
13 **without prejudice.**

14 Dated this 6th day of June, 2018.

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17 BENJAMIN H. SETTLE
United States District Judge
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